

904.805

price type contracts are covered under 48 CFR 42.708.

[49 FR 11941, Mar. 28, 1984, as amended at 62 FR 53757, Oct. 16, 1997]

904.805 Disposal of contract files.

Contract files shall be disposed of in accordance with applicable DOE Order 1324.2. (See current version.)

[49 FR 11941, Mar. 28, 1984, as amended at 59 FR 9104, Feb. 25, 1994]

Subpart 904.70—Facility Clearance

904.7000 Purpose.

This subpart sets forth the Department of Energy policies and procedures regarding Facility Clearances for contractors and subcontractors that require access to classified information or special nuclear material. A Facility Clearance is based upon a determination that satisfactory safeguards and security measures are carried out for classified activities being performed at the facility and upon a favorable foreign ownership, control, or influence (FOCI) determination.

[67 FR 14876, Mar. 28, 2002]

904.7001 Applicability.

The provisions of this subpart shall apply to all offeror(s), contractors, and subcontractors who will or do have access to classified information or a significant quantity of special nuclear material as defined in 10 CFR part 710. In this subpart, the term “contractor” shall also mean subcontractor at any tier, the term “contract” shall also mean subcontract at any tier, and the term “special nuclear material” shall also mean significant quantity of special nuclear material as defined in 10 CFR part 710.

[49 FR 11941, Mar. 28, 1984, as amended at 59 FR 9104, Feb. 25, 1994]

904.7002 Definitions.

Contracting officer means the DOE contracting officer.

Facility Clearance means an administrative determination that a facility is eligible to access, produce, use, or store classified information, or special nuclear material.

48 CFR Ch. 9 (10–1–05 Edition)

Foreign interest means any of the following:

(1) Foreign government or foreign government agency or instrumentality thereof;

(2) Any form of business enterprise organized under the laws of any country other than the United States or its possessions;

(3) Any form of business enterprise organized or incorporated under the laws of the U.S., or a State or other jurisdiction within the U.S. which is owned, controlled, or influenced by a foreign government, agency, firm, corporation, or person, or

(4) Any person who is not a U.S. citizen.

Foreign ownership, control, or influence means the situation where the degree of ownership, control, or influence over an offeror(s) or a contractor by a foreign interest is such that a reasonable basis exists for concluding that compromise of classified information or special nuclear material may possibly result.

[49 FR 11941, Mar. 28, 1984, as amended at 59 FR 9104, Feb. 25, 1994; 67 FR 14876, Mar. 28, 2002]

904.7003 Disclosure of foreign ownership, control, or influence.

(a) If a contract requires a contractor to have a Facility Clearance, DOE must determine whether the contractor is or may be subject to foreign ownership, control or influence before a contract can be awarded.

(b) If, during the performance of a contract, the contractor comes under FOCI, then the DOE must determine whether a continuation of the Facility Clearance may pose an undue risk to the common defense and security through the possible compromise of that information or material. If the DOE determines that such a threat or potential threat exists, the contracting officer shall consider the alternatives of negotiating an acceptable method of isolating the foreign interest which owns, controls, or influences the contractor or terminating the contract.

(c) It is essential for the DOE to obtain information about FOCI which is sufficient to help the Department determine whether award of a contract to